IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

TUESDAY, THE 11TH SEPTEMBER 2007 / 20TH BHADRA 1929

Crl.Rev.Pet.No. 1039 of 2000(B)

CRA.43/1999 OF IV ADDL.SESSIONS COURT, ERNAKULAM,
CC.355/1996 OF JUDL.MAGISTRATE OF FIRST CLASS-I, ERNAKULAM
.....

REVN. PETITIONER/APPELLANT/ACCUSED:

NARAYANANKUTTY, S/O. AYYAPPAN,
KATTUPARAMBIL, KEECHERRY DESOM,
AMBALLOOR VILLAGE, KANAYANNUR TALUK.

BY ADV. SRI.T.RAJESH.

RESPONDENT/RESPONDENT/COMPLAINANT:

STAE OF KERALA, REPRESENTED BY
THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA.

BY PUBLIC PROSECUTOR SRI. C.K. SURESH.

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON 11/09/2007,THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

ORDER ON C.M.P. NO. 5597/2000 IN CRL.R.P. NO. 1039/2000

DISMISSED

11/09/2007. **SD/- K.R.UDAYABHANU, JUDGE.**

//TRUE COPY//

prv.

K.R. UDAYABHANU, J.

CRL.A.NO.1039 OF 2000

DATED THIS THE 11th September 2007

ORDER

The revision petitioner stands convicted for the offence under Section 55(a) of the Abkari Act and sentenced to undergo rigorous imprisonment for six months and to pay a fine of Rs.25,000/- and in default to undergo simple imprisonment for two months. The prosecution case is that on 29-10-1995 at 11.30 a.m. on a search conducted by PW3, the Circle Inspector and the party, 1.5 litres of illicit liquor was recovered from the tea shop of the accused. Ext.P1 is the seizure mahazar prepared at the spot. Ext.P3 is the search memo. PW1 and PW4 are the attestors to Ext.P1 mahazar. Both of them did not support the prosecution. Pw2 is the Preventive officer, who was in the detecting squad. The evidence of PW2 and PW3 tallies. No contradiction was brought out the evidence of Pws.2 and 4 . Ext.P4 chemical analysis report certifies that the sample contained 18.23% of volume of ethyl alcohol. In the circumstances, I find no reason to deviate from the concurrent findings of the courts below with respect to the conviction of the accused. The conviction is confirmed.

2. Counsel for the revision petitioner has pleaded for leniency

pointing out that there is no criminal antecedents for the accused and that since more than last 10 years, the accused have been facing the criminal proceedings and that the income of the accused is the sole means of the livelihood of the family of the revision petitioner and the quantity involved is only 1.5 litres. In the circumstances, the sentence is modified to imprisonment till the rising of the court and to pay a fine of Rs.25,000/- and in default to undergo simple imprisonment for one month. The revision petitioner is granted three months time to pay the fine amount. He shall appear before the Judicial First Class Magistrate--I, Ernakulam on 10-12-2007 to receive sentence. The Crl. revision petition is disposed of accordingly.

K.R.UDAYABHANU, JUDGE

ks.

K.R.UDAYABHANU, J

CRL.R.P. NO. 1039 of 2000

ORDER

11-9-2007